

September 11th
Victim Compensation Fund

September 11th Victim Compensation Fund

An Overview

Updated: September 2020

www.vcf.gov

1-855-885-1555

Please Note:

This document is intended to be used as a reference by individuals who are filing a claim with the September 11th Victim Compensation Fund (“VCF”), or by those who are interested in how the VCF operates. It is not intended as a comprehensive tool for understanding the rules, regulations, policies and procedures that govern the VCF. The document is written for a personal injury victim who is filing his or her own claim, so references to “you” or “your” should be read as “the victim” in those cases where a Personal Representative or guardian may be filing the claim on the victim’s behalf.



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What is the VCF?

- The September 11th Victim Compensation Fund (“VCF”) provides compensation for losses suffered by individuals who were physically injured (or relatives of those who were killed) as a result of the terrorist attacks of September 11, 2001, or during debris removal and clean-up efforts.
- The VCF is a federally-funded program administered by the U.S. Department of Justice and Special Master Rupa Bhattacharyya.
- The VCF is **not** limited to first responders. Other potential claimants include:
 - Workers or volunteers in construction, clean-up, and debris removal; and
 - People who lived, worked, or went to school in the affected areas.

Background/History

- Congress established the original VCF (“VCF1”) in 2001 to bring financial relief to those most devastated by the events of September 11, 2001. VCF1 closed in 2004.
- In January 2011, the Zadroga Act re-opened the VCF and included expanded eligibility criteria, new filing deadlines, and limited funding.
- In December 2015, the Zadroga Act was reauthorized, increasing funding for the VCF from the original \$2.775 billion to a total of \$7.375 billion. Eligibility requirements remained the same, but the policies and procedures for evaluating claims and calculating losses changed.
- In July 2019, the President signed the *Never Forget the Heroes, James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund* (“VCF Permanent Authorization Act”), extending the deadline for filing claims until October 1, 2090, and ensuring sufficient funding to pay all eligible claims.



ELIGIBILITY

VCF2 Eligibility: Overview

In order to be eligible for a VCF award, you must meet the following criteria:

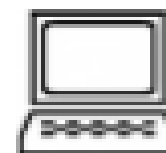
1. Register with the VCF by your applicable [registration deadline](#).
2. Be certified for treatment by the WTC Health Program for an eligible physical health condition that is determined to be “a result of” the attacks or exposure during the clean-up and debris removal period.
3. Show that you were present at a 9/11 crash site, in the VCF’s [NYC Exposure Zone](#), or along routes of debris removal at any point from September 11, 2001, through May 30, 2002.

If applicable to your circumstances, the following criteria must also be met:

4. Timely dismissal, withdrawal, and/or settlement and release of any 9/11-related lawsuit.
5. If you were compensated under VCF1 (the fund that operated from 2001-2004), show you have a new condition or new loss that was not previously compensated.
6. If someone other than the victim is submitting the claim, that person must show that he/she is authorized to act on behalf of the victim.

Eligibility Criteria #1: Register by Your Deadline

- Registration is the first step in the VCF claims process. Registration preserves your right to file a claim in the future, but does not commit you to doing so. Registration does not waive any legal rights.
- You do not need to be sick to register with the VCF.
- Registering with the VCF is **not** the same as filing a claim, and the [registration deadline](http://www.claims.vcf.gov) is **not** the same for everyone. Registration deadlines vary according to individual circumstances.
- When you register, you only need to provide basic information, such as your name, address, phone, date of birth, and your Social Security Number or other ID.
- You can register online at www.claims.vcf.gov, or you can register by phone by calling the VCF Helpline at 1-855-885-1555.



Online at
www.claims.vcf.gov



Toll-free Helpline at
1-855-885-1555

July 29, 2021, Registration Deadline

The July 29, 2021, Registration Deadline, which is two years from the date of enactment of the VCF Permanent Authorization Act, provides an opportunity for claimants who missed prior deadlines to register.

You are only required to register with the VCF by July 29, 2021, if you meet the following circumstances:

- Your only certification(s) with the WTC Health Program for a 9/11-related physical health condition was done **before July 29, 2019**,
- OR -
- You are registering to file a claim for an individual who died **before July 29, 2019**, and the death is believed to be caused by a 9/11-related physical health condition.

Individual Registration Deadlines

- If you have **not** yet been certified by the WTC Health Program for a 9/11-related physical health condition, or if **any** condition is certified **after July 29, 2019**, you may register by July 29, 2021, but are not required to do so.
- If in the future the WTC Health Program certifies you for a 9/11-related physical health condition, you are required to **register** within **two (2) years of the latest date** on which the WTC Health Program certifies a physical condition as 9/11-related.
- If you are registering on behalf of an individual who died **after July 29, 2019**, as a result of a 9/11-related eligible condition, you have **two (2) years from the date of death** to register.
- Detailed information on registration deadlines is available on www.vcf.gov/deadlines.

Questions about your individual registration deadline?

Call our Helpline at 1-855-885-1555.

Eligibility Criteria #2: Certified Condition(s)

- You must have an eligible *physical* injury or condition that is determined to be a result of the terrorist attacks or exposure during the clean-up and debris removal activity.
- The VCF relies on certification by the WTC Health Program to confirm you have a condition that is eligible for compensation. In extremely limited cases, conditions may be verified through the VCF [Private Physician process](#).
- The VCF and the WTC Health Program work closely together and exchange information regarding conditions for which you are certified for treatment.
- The VCF cannot process your claim until we receive notification from the WTC Health Program that you have been certified for at least one 9/11-related physical condition.

Eligibility Criteria #3: Presence at the Site

You must have been present at a 9/11 crash site, on routes of debris removal, or at any location within the VCF's [NYC Exposure Zone](#) at any point from September 11, 2001, through May 30, 2002.

The VCF NYC Exposure Zone, used to establish “*presence*,” runs south of Canal Street, river to river, and from the Hudson River to the intersection of Canal Street and East Broadway, north on East Broadway to Clinton Street, and east on Clinton Street to the East River; and any area related to or along the routes of debris removal, such as barges and the Fresh Kills landfill.



How to Prove Presence

- Proving that you were present at one of the 9/11 crash sites, or in any area related to or along the routes of debris removal, is a key requirement to be eligible for compensation. You must show you were there at any point between September 11, 2001, and May 30, 2002.
- We will accept a broad range of documents dated from that time – these may include documents such as employer letters, worker injury reports, contemporaneous medical records, lease or mortgage documents, tax returns, and school transcripts.
- The VCF has established agreements to share information about presence on your behalf with several third-parties, such as the FDNY, the NYC Department of Sanitation, ConEd, and many other employers, unions, and organizations.
- The [VCF website](http://www.vcf.gov) has extensive information about the established agreements and the various documents that can be used to prove you were there.

How to Prove Presence

- When determining which documents to submit, consider the end result the VCF is trying to achieve: independent, third-party documentation that verifies:
 - **Where you were** (specific address(es)), and
 - **When you were there** (specific dates).
- If your claim is denied for lack of proof of presence, it means the VCF did not have the documentation needed in order to confirm your presence. If this happens, you can appeal the determination. When you appeal, we will schedule a hearing so you can provide testimony in support of your presence. The testimony – telling us your “story” – is another way to provide information in support of your claim.
- It is important to remember that we consider the totality of the circumstances in each individual case, and will consider a wide range of documents to support presence.

When to Provide Presence Documentation

- Any documents you submit in support of presence should contain as much specific detail as possible: **when** you were there (dates, timeframes), **where** you were located (address(es)), and **why** you were there (activities you were doing).
- You do not need to submit your presence documentation until you file your claim. But, once you have an online account in our system and have registered with the VCF, you have the option to upload presence documentation to your claim to “store” it for future use.
 - The VCF will **not** review the documents until you file your claim.
 - You do **not** need to do this if we have an agreement in place to get presence information directly from your employer, union, or other organization.

Eligibility: VCF vs. WTC Health Program Criteria

- The VCF and the WTC Health Program are **separate programs**. Enrollment in one does not register you in the other.
- You may be certified for treatment by the WTC Health Program, but not eligible for compensation by the VCF. The criteria for the programs overlap, but not entirely:

	VCF	WTC Health Program
Illnesses Covered	Physical only	Physical and Psychological
Geographic <u>Zone</u> – <i>where</i> were you?	For “presence at the site”: NYC Exposure Zone (south of Canal Street – Manhattan only); along the routes of debris removal, barges and the Fresh Kills landfill	For exposure: NYC Disaster Area – South of Houston Street and parts of Brooklyn
Presence/Exposure <u>Timeframe</u> – <i>when</i> were you there?	September 11, 2001 – May 30, 2002	September 11, 2001 – July 31, 2002
Presence/Exposure <u>Duration</u> – <i>how long</i> were you there?	No minimum time required – just need to have been in the zone during the timeframe	Minimum time requirements apply

Note: The VCF does not distinguish between Responders and Survivors in any way: eligibility, the claims process, or the calculation of awards.

Eligibility Criteria #4: Lawsuits (*if applicable*)

- If you filed a 9/11-related lawsuit, you must demonstrate that the lawsuit was dismissed, withdrawn, and/or settled and released by a specified date.
 - If you cannot demonstrate timely dismissal, withdrawal, and/or settlement and release, you will not qualify for compensation.
 - If you timely settled a 9/11-related lawsuit, that settlement payment will be deducted from any VCF award as required by the statute.
 - There are special rules for claimants with conditions added by the WTC Health Program after 2011.
- When filing a VCF claim, you waive your right to file (or be a party to) a civil action in any federal or state court for damages sustained as a result of 9/11 crashes or debris removal.
- Note: There are two types of permissible 9/11-related lawsuits: civil actions against terrorists and civil actions to recover collateral source obligations. Additional details about 9/11-related lawsuits can be found in the [Policies and Procedures](#) on the VCF website.

Eligibility Criteria #5: VCF1 Claims (*if applicable*)

- If you were compensated under VCF1 (the VCF that operated from 2001-2004), you must demonstrate that you suffer from a new condition or have a new loss that was not previously compensated.
- For example:
 - A claimant who received a non-economic loss award in VCF1 for an orthopedic injury sustained while escaping from the World Trade Center, and now is certified for cancer, may be eligible for additional compensation.
 - A claimant who received a non-economic loss award in VCF1 for mild to moderate asthma, and who was subsequently determined to be disabled due to asthma, may be eligible for additional compensation.

Eligibility Criteria #6: Authorization (*if applicable*)

- If someone other than the victim is submitting the claim, that person must prove that they are authorized to act on behalf of the victim.
 - For a deceased victim, this individual is the Personal Representative as appointed by a court.
 - For a personal injury victim, this may be a guardian appointed for an incapacitated adult.

COMPENSATION

VCF Compensation: Overview

The compensation award is comprised of 3 components:

1. **Non-economic loss** – Typically referred to as “pain and suffering.”
2. **Economic loss** – Loss of earnings and employment benefits, Replacement Services loss, and/or medical or other out-of-pocket expenses.
3. **Collateral offsets** – Benefits or payments received from other sources that compensated for the eligible injury.

$$\begin{aligned} &\text{Non-economic loss} \\ &+ \text{Economic loss} \\ &- \text{Collateral Offsets} \\ &= \text{VCF AWARD} \end{aligned}$$

Each claim is evaluated individually.

VCF Compensation: Non-Economic Loss

The amount awarded for “pain and suffering” varies by type, severity, and the effect of the condition(s) on the victim’s life.

It is **not** tied to the **number** of conditions certified.

- All eligible claimants qualify for non-economic loss, minus applicable offsets.
- The statute governing the VCF imposes caps of \$250,000 for a cancer and \$90,000 for a non-cancer condition.
 - Awards for cancer conditions range between \$90,000 and the \$250,000 cap set by the statute.
 - Awards for non-cancer conditions range between \$10,000 and the \$90,000 cap, depending on the severity of the conditions.
 - Awards at the higher end of these ranges are for those whose conditions are consistent, sustained, and have a severe impact on their quality of life. Awards at the low end of the range are for conditions that impose a mild impairment on daily life, have resolved over time, or are reasonably well-controlled through medication.
 - Multiple cancers or cancer with severe non-cancer conditions may result in awards above \$250,000.

For WTC Health Program patients, the VCF does **not** need medical records to establish eligibility or to award non-economic loss, but medical records that demonstrate the severity of conditions may help support a higher award.

VCF Compensation: Economic Loss

- You qualify for a lost earnings award **only** if you have an occupational disability due to an eligible condition based on a determination by:
 - A governmental agency (e.g., Social Security Administration, Workers' Compensation, the FDNY, NYPD, NYCERS),
 - A private insurer, or
 - The WTC Health Program disability evaluation process (in very limited circumstances).
- If you have a third-party disability determination for an eligible condition, the VCF will review whether your lost earnings are a result of that disability.
- The lost earnings calculation considers factors specific to you such as age, income, percentage of disability (e.g., whether the disability is partially attributable to ineligible conditions), date of onset of disability, employer-provided benefits, and other factors.
- The VCF [Policies and Procedures](#) provide additional details on how economic loss is calculated.

VCF Compensation: Economic Loss

Replacement Services loss

- May be awarded to compensate for the value of household-related services that a claimant regularly performed but can no longer perform as a result of an eligible condition. Medical records are required to demonstrate that eligible conditions prevent you from performing the claimed services.
- Typically considered to be a component of loss in deceased claims, or in claims where the claimant did not have prior earned income or worked only part-time outside the home.

Medical Expenses loss

- May be awarded for documented out-of-pocket medical costs related to an eligible condition(s), that are not covered by the WTC Health Program, insurance, or other sources.
- Can only be requested as an amendment after an initial award determination has been issued, and only if the total amount of the claimed medical expenses incurred exceeds \$5,000.

VCF Compensation: Collateral Offsets

By law, benefits or payments received from other sources that compensated for the **eligible physical injury or condition** must be deducted from a VCF award. This includes but is not limited to:

- Social Security disability or survivor benefits
- Workers' Compensation (including WTC Volunteer Fund) benefits
- Pensions
- Public Safety Officers' Benefits payments
- Lawsuit settlement payments
- Life insurance

Note: Charitable benefits are not offset.

FILING A CLAIM

Filing a VCF Claim

- There are **three steps** you must complete to file your claim:
 1. Register by your [applicable registration deadline](#).
 2. Get certified by the WTC Health Program for a physical condition.
 3. Complete and submit the Claim Form ([online](#) or in [hard copy](#)) and required supporting documents by **October 1, 2090**.
- Visit the VCF website for [step-by-step instructions](#).
- The Claim Form requires that you authorize the VCF to obtain information related to your claim from other organizations, including the WTC Health Program. This authorization is provided through the Claim Form Signature Page and Exhibit A – Authorization for Release of Medical Records.
- You **do not** need an attorney to file a claim. If you choose to have an attorney assist you, the attorney may not charge more than 10% of the amount of your VCF award.
- The VCF routinely communicates with claimants to identify and request missing information needed in order to process your claim.
- The VCF Helpline can assist you with using the online claims system, including setting an appointment to get help completing the claim form.

Filing a VCF Claim

- Claims are reviewed in priority order based on the date the Claim Form is submitted.
- The time it takes to process a claim depends on many factors, including:
 - Whether the documents needed to evaluate the claim have been submitted
 - Type of claim
 - Losses claimed
 - Complexity of the claim
- You may **appeal** within 30 days of the determination if the claim is denied, or if you believe the award was erroneously calculated.
 - Appeal hearings are informal and non-adversarial and are held by phone or video conference (due to the pandemic, in-person hearings are not being held at this time).

Processing a VCF Claim

- You may **amend** your personal injury claim at any point before October 1, 2090, to add a new condition, claim a new loss, and/or submit additional information that may be relevant to the claim.

Note: Certification of a new condition does not automatically mean a higher award.

- Once the appeal period noted in the award letter has ended, payment will generally be authorized within 20 days. It may take up to 45 days before the money is deposited into the designated account.
- In cases of terminal illness or significant financial hardship, the VCF may expedite the processing of a claim, upon request by the claimant or his/her attorney by contacting the Helpline and uploading any appropriate documentation to your claim.

For More Information

VCF WEBSITES

www.vcf.gov

www.vcf.gov/spanish

www.vcf.gov/polish

www.vcf.gov/chinese

Toll-free Helpline:

1-855-885-1555

- For the hearing impaired:
1-855-885-1558
- If calling from outside the
U.S.: 202-514-1100
- Interpreters are available

*Make sure you are on the official VCF **.gov** website!*

